

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

IN RE:)	
)	
LINDA MARIE CARTER)	Case No. 18-10427-BFK
)	Chapter 7
)	
Debtor)	
)	
)	
JANET M. MEIBURGER, Trustee,)	
)	
Plaintiff)	
)	
v.)	Adv. Pro. No. _____
)	
RONALD B. CARTER)	
)	
Defendant)	
)	

**COMPLAINT TO AUTHORIZE SALE OF PROPERTY
OF THE BANKRUPTCY ESTATE AND OF CO-OWNER
PURSUANT TO BANKRUPTCY CODE SECTION 363(h)**

Janet M. Meiburger, the Chapter 7 Trustee in the above-named case, by her undersigned proposed counsel, pursuant to Federal Rule of Bankruptcy Procedure 7001(3), hereby files this Complaint to Authorize Sale of Property of the Bankruptcy Estate and of Co-Owner Pursuant to Bankruptcy Code Section 363(h), and in support thereof states as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this adversary proceeding under 28 U.S.C. §§ 157 and 1334.

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2. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A), (M) and (O).

3. Venue in this Court is proper pursuant to 28 U.S.C. § 1409.

PARTIES

4. On February 6, 2018 (the “Petition Date”), Linda Marie Carter (the “Debtor”) filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code.

5. Janet M. Meiburger was appointed Chapter 7 Trustee on February 7, 2018 (Docket No. 6).

6. Ronald B. Carter is the former husband of Linda Marie Carter.

FACTS

7. The bankruptcy estate includes Linda Marie Carter’s interest in real property located at 43336 Vestals Place, Leesburg, VA 20176 (the “Property”). The Property is a single family residence.

8. On June 5, 2015, Linda Marie Carter and Ronald B. Carter were divorced by order of the Loudoun County Circuit Court, Case No. CL00093823-00. Therefore, the Property is owned by Linda Marie Carter and Ronald B. Carter as tenants in common.

9. The Trustee anticipates selling the Property as a short sale.

RELIEF REQUESTED

10. Pursuant to 11 U.S.C. § 363(h), a trustee may sell both the estate’s interest and the interest of any co-owner in property in which the debtor had, at the time of the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if: (i) partition in kind of such property among the estate and such co-owners is impracticable; (ii) sale of the estate’s undivided interest in such property would realize

significantly less for the estate than sale of such property free of the interests of such co-owners; (iii) the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and (iv) such property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light or power.

11. Partition in kind of the Property between the bankruptcy estate and Ronald B. Carter is impracticable.

12. The sale of the bankruptcy estate's undivided one-half interest in the Property would realize significantly less for the bankruptcy estate than a sale of the Property free of the interests of Ronald B. Carter.

13. The benefit to the bankruptcy estate of a sale of the Property free of the interests of Ronald B. Carter outweighs the detriment, if any, to him.

14. The Property is not used in the production, transmission or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light or power.

15. Pursuant to 11 U.S.C. 363(h), the Plaintiff respectfully requests entry of an order allowing her to sell the Property free of the interests of Ronald B. Carter, as co-owner and requiring Ronald B. Carter to cooperate with the Trustee's efforts to sell the Property.

16. The Trustee will file an application for employment of a realtor once the relief requested herein has been granted. Any sale of the Property will be subject to the approval of the Bankruptcy Court, and the Trustee will file a motion to approve any such sale once there is a ratified contract for the purchase and sale of the Property.

WHEREFORE, the Trustee respectfully requests that the Court enter judgment against Ronald B. Carter, pursuant to 11 U.S.C. 363(h), authorizing the Trustee to sell the real property

located at 43336 Vestals Place, Leesburg, VA 20176 free of the interests of Ronald B. Carter as co-owner, subject to his rights pursuant to 11 U.S.C. §363(i), requiring Ronald B. Carter to cooperate in the Trustee's efforts to sell the Property, and granting such other and further relief as the Court deems appropriate.

Respectfully submitted,

The Meiburger Law Firm, P.C.

Dated: May 3, 2018

By: /s/ Janet M. Meiburger

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